

REMARKS

Introduction

This amendment is responsive to the Office Action mailed April 29, 2008. The Office Action indicates that applicants' prior arguments have been considered but are moot in view of newly stated grounds of rejection.

Summary of Office Action

The Office Action rejected Claims 1, 12, 22, and 30 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Bernard et al., U.S. Patent No. 5,918,213 (hereinafter "Bernard"), in view of Kinjo, U.S. Patent Application Publication No. 2003/0063575 (hereinafter "Kinjo"). Claims 2, 4-10, 12, 14, 29, and 31-35 were rejected as being allegedly unpatentable over Bernard and Kinjo, and further in view of Siegel et al., U.S. Patent Application Publication No. 2002/0082931 (hereinafter "Siegel"). Claim 3 was rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Bernard, Kinjo, and Siegel, and further in view of Fitzsimmons, Jr., U.S. Patent Application Publication No. 2002/0068991 (hereinafter "Fitzsimmons").

Applicants have carefully considered the cited references as well as the comments provided in the Office Action, and request reconsideration of the application.

Status of the Claims

Claims 1, 10, 12, 20, 22, and 28-33 have been amended. New Claims 36-38 have been added. The amendments to the claims and the new claims are supported by the specification as originally filed at least at page 11, line 25, to page 12, line 9. Claims 1-10 and 12-38 are thus pending in the present application.

Applicants submit that the cited references do not support a *prima facie* rejection of the amended claims under 35 U.S.C. § 103(a). The cited and applied references, whether considered alone or in combination, fail to disclose or suggest all of the elements recited in the claims and indeed teach away from the present application. The claims should thus be allowed.

Claim Rejections Under 35 U.S.C. § 103(a)

Independent Claim 1

Claim 1 is directed to a method for a second retail entity to communicate information regarding a selected item to a user present at the location of a first retail entity, which second retail entity is different from the first retail entity. As recited in Claim 1, while the user remains present at the location of the first retail entity, "the second retail entity: receiv[es] an image directly from an imaging device of the user, wherein the image contains multiple instances of identifying data associated with the selected item." For each of the multiple instances of identifying data, the method of Claim 1 further requires the second retail entity to "extract[] the identifying information from the image using a data recognition procedure that produces an output." The second retail entity is also required to "compar[e] the output of each of the data recognition procedures to corroborate the identification of the selected item that is obtained from each instance of the identifying data" and "us[e] the corroborated identifying data to obtain item information associated with the selected item." The second retail entity thereafter "communicat[es] the item information directly from the second retail entity to the imaging device of the user."

Applicants submit that these elements in combination are not taught or suggested by Bernard and/or Kinjo, nor does Siegel cure the deficiency of disclosure.

For example, in paragraph [0071], Siegel explains:

As an example, a customer can scan a UPC symbol 100 of a stereo component at participating Store A using a scanning device 101 associated with an Internet-ready device 102. The device 102 can then contact an electronic retail network server 104 over the Internet and transmit information concerning the UPC code as well as information regarding the global position of the Internet-ready device 102. Using this information, the electronic retail network server 104 can then supply information to the Internet-ready device 102 regarding pricing available at store A, as well as the nearby participating vendors (Store B, Store C, etc.).

There is no suggestion that the device 102 transmits an image containing multiple instances of identifying data associated with the selected item. Similarly, neither Bernard nor Kinjo (nor Siegel for that matter) discloses a method that includes "for each of the multiple instances of identifying data, extracting the identifying data from the image using a data recognition procedure that produces an output" and "comparing the output of each of the data recognition procedures to corroborate the identification of the selected item that is obtained from each instance of the identifying data."

Amended Claim 1 is patentably distinguished over the cited and applied references. Accordingly, for at least the reasons set forth above, applicants submit that Claim 1 should be allowed. Withdrawal of the rejection of Claim 1 is respectfully requested.

Dependent Claims 2 and 4-10

As discussed above, Bernard, Kinjo, and Siegel fail to teach all of the combination of features of independent Claim 1. Where dependent Claims 2 and 4-10 ultimately depend from independent Claim 1, Claims 2 and 4-10 are likewise allowable over Siegel and Kinjo for at least the reasons discussed above in connection with Claim 1. Claims 2 and 4-10 are also allowable for the additional subject matter they recite.

Dependent Claim 3

As with Claims 2 and 4-10, applicants submit that Claim 3 is patentable over Bernard, Kinjo, and Siegel because of the failure of the references to teach all of the features of independent Claim 1. Additionally, applicants have considered the disclosure of Fitzsimmons with respect to Claim 3 and submit that Fitzsimmons does not overcome the deficiencies of disclosure in Bernard, Kinjo, and Siegel as discussed herein.

New Claims 36-38

New Claim 36 is directed to the method of Claim 1 and further comprises "judging a quality of the output of each of the data recognition procedures and using the best identifying data to obtain the item information." New Claim 37 further comprises "polling the user to

determine the correct identifying data for the selected item if the output of the data recognition procedures results in conflicting identifying data," while new Claim 38 recites "wherein if the data recognition procedures output conflicting identifying data, the method further comprises obtaining item information for all of the items identified by the output of the data recognition procedures."

As noted earlier, the subject matter recited in new Claims 36-38 is supported by the application as filed, at least at page 11, line 25, to page 12, line 9. Applicants have considered the disclosures of Bernard, Kinjo, Siegel, and Fitzsimmons and submit that the cited art does not teach or suggest the features of Claims 36-38. These claims should thus be allowed.

Independent Claim 12

Claims 12 and 15-21 were rejected under the same basic rationale as Claims 1, 2, and 4-10. Claim 12 has been amended to state that the subsystems are respectively configured "to receive an image directly from the imaging device of the user, wherein the image contains multiple instances of identifying data associated with the selected item . . . to extract the identifying data from each of the multiple instances in the image using a data recognition procedure that operates on an instance of the identifying data and produces an output . . . to compare the output of each of the data recognition procedures to corroborate the identification of the selected item that is obtained from each instance of the identifying data."

Applicants respectfully submit that Bernard and Kinjo fail to teach all of the combination of elements recited in Claim 12. Accordingly, Claim 12 is in patentable condition. Withdrawal of the rejection of Claim 12 is requested.

Dependent Claims 13-21

Dependent Claims 13-21 ultimately depend from independent Claim 12. As discussed above, applicants submit there is no combination of Bernard and Kinjo that teaches or suggests all of the elements of independent Claim 12. Claims 13-21 also include a number of recitations not disclosed, taught, or suggested by Bernard, Kinjo, or Siegel, particularly when the recitations

are considered in combination with the recitations of Claim 12 from which these claims depend. For the above-mentioned reasons, Claims 13-21 are likewise allowable. Withdrawal of the rejections under Section 103 is requested.

Independent Claim 22

Amended Claim 22 recites elements similar to those of amended Claim 1. Accordingly, based on the above analysis of Claim 1, applicants similarly submit that Bernard and Kinjo, whether considered alone or combined, fail to teach or suggest all of the elements of Claim 22. In particular, Bernard and Kinjo fail to teach the recited "computer-executable component [that] is executed by a server of the second retail entity" that "receiv[es] an image directly from an imaging device of the user, said image containing multiple instances of identifying data associated with the selected item" and "for each of the multiple instances of identifying data, extract[s] the identifying data from the image using a data recognition procedure that produces an output." Bernard and Kinjo fail to teach "comparing the output of each of the data recognition procedures to corroborate the identification of the selected item that is obtained from each instance of the identifying data." For at least these reasons, the rejection of Claim 22 should be withdrawn.

Dependent Claims 23-29

Claims 23-29 are dependent on Claim 22 and, thus, are allowable for the reasons discussed above in connection with Claim 22. Claims 23-29 also include a number of recitations not disclosed, taught, or suggested by Bernard, Kinjo, or Siegel, particularly when the recitations are considered in combination with the recitations of Claim 22 from which these claims depend. For these reasons, Claims 23-29 are patentable over Bernard, Kinjo, and Siegel.

Independent Claim 30

Claim 30 is directed to an "integrated portable apparatus for obtaining item information for a selected item available for purchase at a location of a first retail entity." The apparatus comprises, among other things, "an input device configured to capture an image that contains

multiple instances of identifying data associated with the selected item," and "a processing unit communicatively coupled to the input device, the output device, and the storage medium, for executing the program instructions that process the image by: communicating the image containing the multiple instances of identifying data directly to a server operated by the second retail entity, wherein the selected item is available for purchase from the second retail entity; receiving, directly from the server of the second retail entity, item information for multiple items that result from conflicting identifying data obtained from the image; and outputting on the output device the item information for the multiple items."

For reasons similar to those previously discussed with respect to Claim 1, neither Bernard nor Kinjo discloses directly communicating the image containing multiple instances of the identifying data to a server operated by the second retail entity, wherein the selected item is available for purchase from the second retail entity, nor do they disclose receiving item information for multiple items that result from conflicting identifying data that is obtained from the image.

Bernard and Kinjo, even if combined, do not render obvious the apparatus claimed in Claim 30. For at least these reasons, as well as the reasons presented with respect to Claim 1, applicants submit that Claim 30 is patentable over the cited art.

Dependent Claims 31-35

Dependent Claims 31-35 depend from independent Claim 30. Claims 31-35 are patentable over Bernard, Kinjo, and Siegel, both for their dependence on Claim 30 and for the additional subject matter they recite.

CONCLUSION

In view of the foregoing amendments and remarks, applicants submit that all of the pending claims in the present application are in condition for allowance. Reconsideration of the application and allowance of the claims is requested. Should the Examiner have any remaining questions or comments concerning this application, the Examiner is invited to contact the undersigned counsel at the telephone number provided below.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Kevan L. Morgan", is written over the printed name.

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